

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
WAYNE COUNTY, AND
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING THE REPLACEMENT OF
TR 383 BRIDGE OVER LITTLE DRY FORK
(STRUCTURE NO. 096-3148)
NEAR THE VILLAGE OF SIMS, WAYNE COUNTY, ILLINOIS**

WHEREAS, Wayne County in coordination with the Illinois Department of Transportation (IDOT) plans to replace the TR 383 Bridge over Little Dry Fork, Sequence # 17973 (Project) near the Village of Sims, Wayne County, Illinois; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the Project, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. Section 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS, the FHWA has defined the undertaking's area of potential effect (APE) as the footprint of the existing bridge; and

WHEREAS, the FHWA has determined that the undertaking will have an adverse effect on the TR 383 Bridge over Little Dry Fork (Structure Number 096-3148), which is eligible for listing on the National Register of Historic Places, and has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. Part 800; and

WHEREAS, the Project will not affect other historic properties; and

WHEREAS, the FHWA has invited the IDOT and Wayne County to participate in consultation and to become signatories to this memorandum of agreement (MOA); and

WHEREAS, the public was given an opportunity to comment on the undertaking's adverse effect in a notice published on November 16, 2015, November 19, 2015, and November 23, 2015 in the *Wayne County Press*; and

WHEREAS, pursuant to 23 USC 144(g), there were no responsible parties who expressed an interest in taking ownership of the bridge to maintain and preserve the bridge in perpetuity; and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect, pursuant to 36 CFR Section 800.6(a)(1), in a letter dated May 18, 2016; and

WHEREAS, the ACHP declined to enter into consultation in a letter dated June 7, 2016; and

NOW, THEREFORE, the FHWA, IDOT, Wayne County, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA, in coordination with the IDOT and Wayne County, shall ensure that the following measures are carried out:

1. Prior to beginning of construction activities, the IDOT shall submit documentation of the TR 383 Bridge over Little Dry Fork to the SHPO to the Level III standards of the Illinois Historic American Engineering Record (HAER). The SHPO must review and approve the draft HAER documentation in writing prior to the demolition of the existing bridge. Wayne County must ensure that the existing bridge remains in place until they receive written notification from IDOT that the SHPO has approved the draft HAER documentation, and therefore, the existing bridge can be removed. IDOT will ensure that the final HAER report is submitted to the SHPO within four (4) months after the draft HAER report is approved. When the SHPO approves the final HAER report the Section 106 process will have been concluded.

2. DURATION

This MOA will be null and void if its stipulations are not carried out within ten (10) years from the date of its execution. At such time, and prior to work continuing on the undertaking, the FHWA shall either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation 6 below. The FHWA shall notify the signatories as to the course of action it will pursue.

3. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, the FHWA, in coordination with the Illinois SHPO, shall make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties and follow the requirements of 36 CFR Section 800.13(b).

4. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, the FHWA will:

A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FHWA shall prepare a written

response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of such written response.

C. The FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

5. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

6. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation 6 above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify the signatories as to the course of action it will pursue.

EXECUTION of this MOA by the FHWA and Illinois SHPO and implementation of its terms are evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

FEDERAL HIGHWAY ADMINISTRATION

By: James P. Pilant Date: 11-14-2016

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: LB MCG Date: 11/7/16

INVITED SIGNATORIES

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: Jeffrey M. South Date: 10/14/16

WAYNE COUNTY

By: Dee Seidel Date: Oct 5, 2016